

## Items to Include in a Smoke-Free Policy

According to the Public Health Law Center's Tobacco Control Legal Consortium, an effective smoke-free housing policy typically includes the following elements:

- An introduction that explains the policy's purpose, which can include information about the dangers of secondhand smoke.
- Clear, consistent definitions of important terms, such as "smoking," "premises," and "common area," to help ensure that the policy is interpreted, implemented, and enforced in ways that effectively protect the entire housing community.
- Information on which areas must be smoke-free, such as common areas, units (new and/or existing), outdoor areas (including patios and balconies), and setbacks from entrances.
- Description of who must comply, such as residents, guests, employees and business visitors.
- Disclaimer that the landlord is not acting as a guarantor of the policy. This provision helps protect landlords of smoke-free buildings from claims brought by residents injured as a result of policy violations unknown to the landlord.
- Information on enforcement:
  - Who will enforce the policy (local government, private citizens, landlords, condominium association).
  - How the policy will be enforced (verbal warnings, warning letters, fines, eviction).
  - Responsibility of landlords (post warning signs, consistently enforce the policy).
  - Responsibility of residents (notify guests and visitors, report violations).
  - Smoke-free leases and agreements are often signed by everyone on the lease agreement who is 18 years or older and the landlord.

## Review Sample Enforcement Plans

A smoke-free violation is a lease violation and requires an organization to react appropriately. PHAs may help residents change their smoking behavior and keep their housing. They may involve resident services staff or a case manager, provide cessation materials, or conduct a private meeting between the resident and the property manager to discover the reason for the policy violation.

Below are examples of enforcement plans.

- **Enforcement Plan for Home Forward, Portland, OR (public housing)**

1st Violation	Verbal Warning and Cessation Materials
2nd Violation	Verbal Warning, Cessation Materials, Resident Service Referral
3rd Violation	Written Warning, Cessation Materials, Resident Service Referral
4th Violation	Notice to Vacate with Option to Remedy, Cessation Materials, Resident Service Referral
5th Violation	10-day Notice without the Option to Remedy

*Additional history for Home Forward enforcement: Since 2009, 51 notices with option to remedy issued across 2,000 units; nine notices issued with no option to remedy. One went to court; however, it was for other, major violations so the smoking violation was not mentioned.*

The effect of any intervention may result in a simple modification. In one instance, an elderly resident with mental health and memory issues admitted she kept forgetting about the policy. Working with her social worker, the property manager put signs around her apartment that simply and clearly said, "Remember: no smoking inside."

● **Enforcement Plan for Duluth Housing Authority, Duluth, MN (public housing)**

- 1st violation      Verbal discussion with the property manager and a breach of no-smoking policy letter (21 violations)
- 2nd violation      Discussion of the smoking policy with the property manager, a written notification of the violation which the resident must sign to show agreement to the terms of the lease that include termination if the policy is violated after three times (11 violations)
- 3rd violation      Eviction letter, which results in either eviction or a probationary agreement

*Additional history for Duluth Housing Authority from February 2012 to May 2014, in 536 units within four high-rises: two evictions for smoking and six evictions for other reasons in addition to smoking.*

● **Enforcement Plan for Landura Associates, affordable housing properties in Southeastern U.S. (includes subsidized multifamily housing)**

- 1st violation      Written warning
- 2nd violation      Written warning
- 3rd violation      Letter of eviction

*Additional history for Landura Associates: Policy has been in effect since 2010 in 4,500 units. There have been two eviction cases since 2010, one in North Carolina and one in Virginia.*

*Note: Written notice of termination of tenancy (i.e., letter of eviction) must be in accordance with HUD, state, and local requirements.*

## **5. Look for Additional Community Partners**

Involving community partners who have an interest in your effort will lead to greater support, more ideas on the table, a better understanding of the resident community context, and a more effective effort.